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"Airline Industry Consolidation and the Expected Effects on Labor Relations Issues"

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Loyal employees in any company create loyal customers, who in turn create happy shareholders.

—Sir Richard Branson, Virgin Atlantic Airways founder and CEO, 2001

Do you know how much faster I can fix an airplane when I want to fix it than when I don't want to fix it?

—Gordon Bethune, CEO Continental Airlines, quoted in *Throwing the Elephant: Zen and the Art of Managing Up*, 2002

If the Wright brothers were alive today, Wilbur would have to fire Orville to reduce costs.

—Herb Kelleher, Southwest Airlines, *USA Today*, June 8, 1994

Numerous obstacles exist to creating a dedicated and harmonious workforce in the airline industry, though its importance to profitability and operations cannot be denied. The panel today will try to shed light on where the parties' complicated labor-management relationship is and where it is going, especially given the industry's significant consolidation in recent years.

Uncertain Effects of Airline Industry Consolidation

All the effects of the airline industry's consolidation are not yet known. Among the most critical questions are these:

- **Will ticket prices rise? Will the airlines be stable? Will they be profitable?**

- **What challenges will the airlines face?**

    - **In the domestic markets, will low-cost carriers undermine the majors' market dominance in the big markets? Will the growth of intercity buses, teleconferencing and subsidized rail service undermine the short-haul market for air carriers?**

    - **On the international front, will competition from rapidly growing foreign carriers hurt profitability because the majors make much of their profits from international flying? Does the fight over Norwegian Air Shuttle portend the beginning of low-cost carriers on international routes? What will be the impact of lower-cost cargo container ships on the cargo airlines?**

- **What will be the impact on labor-management relations?**
    - **Will acrimony reign?**
    - **What will be the impact on airlines that are predominantly nonunion (e.g., JetBlue (though recent ALPA certification), Delta and Virgin America (recent flight attendant filing for representationelection)?**
    - **Are strikes and lockouts in the offing?**
    - **Are the "Big 4" airlines "too big to strike," as some have suggested?**
    - **Will presidential emergency boards be used frequently to resolve collective bargaining disputes, similar to their prevalence in the railroad industry? Or, will labor and management find new ways to work out their differences? Will they develop effective labor-management committees to address**

urgent problems between contracts? Is “med-arb” a method that will be used in bargaining and grievance arbitration? Is it effective?

- How will unions expand? Will more organizing attempts occur.

An overview of the airline industry’s history since 1978; new and ongoing pressures and developments; and existing and future labor relations issues affords useful background and context for the panel’s discussion.

US Airline Industry Since Deregulation

The modern airline industry started with the industry’s deregulation in 1978 and continued with the sun setting of the Civil Aeronautics Board in the ensuing years. Airline Deregulation Act, Pub. L. 95-504, October 24, 1978. Deregulation was expected to bring competitive market forces to bear on “the quality, variety and price of air service.” Cost increases, including wage increases, could no longer be automatically passed on to consumers through regulated ticket prices.

Expansion and Low-Cost Carriers. Right after deregulation, several carriers expanded rapidly through acquisitions. In addition, many new airlines were created because the cost of entry was low, which led to fierce competition with the majors. The major airlines’ costs, including labor and aircraft maintenance, were still relatively high. The new entrants charged lower prices, challenging the established carriers’ profitability.

There is an echo of these first startups in the low-cost carriers of today, which similarly challenge the pricing structure of the majors. Probably the loudest echo is Southwest Airlines, which not only survived but also has flourished with a very different business model than the rest of the majors. Much has been written about this airline’s unique

approach—single aircraft type, use of secondary airports, strong employee culture, labor contracts focused on limited work rules and a loyal customer base.

***Changes in the Business Environment*. After deregulation, the majors responded by creating the hub-and-spoke system so they could control the flow of passenger traffic. They also created frequent flyer programs to promote passenger loyalty. In addition, they developed yield management systems to maximize revenue from each flight. Nonetheless, the majors incurred huge losses in the early 1980s. As a result, the carriers sought concessions based on the rationale that because their competition had lower costs, so must they.**

As a member of the National Mediation Board from 1988 to 1993, I can attest to the vitriolic nature of labor relations at the time. The demise of Pan Am, as well as the Eastern Airlines strike in 1989–90 and the airline's subsequent bankruptcy and liquidation, both resulted from the economic disruption of the period and the parties' inability to work through it.

***Regional Airlines*. The majors also developed the regional feed system, composed of wholly owned or contracted operators of smaller aircraft, to bring passengers to their hubs from smaller markets at low cost. With this approach, the majors could focus on lucrative long-haul routes.**

***Concessions and Outsourcing*. The majors got on their feet and became profitable again. However, the threat of bankruptcy was made real by the experience of Braniff and Continental, so the unions became cautious in their demands. Labor and management agreed to two-tier wage systems, known as "B" scales.**

Another way the major carriers sought to reduce costs was to expand outsourcing. Ticket sales through travel agents had always been outsourced. Much heavy airline

maintenance is now done abroad. The carriers are subcontracting fleet service, reservations, airport services, and "into plane" functions such as catering, fueling and cabin cleaning. Of course, flying by regional partners—another kind of outsourcing—has increased enormously.

***Startups*. By the 1990s, most of the startups from the 1980s failed. They failed mainly because of inadequate financing. In some instances, the majors acquired the startup.**

***Employee Ownership*. The 1990s saw another approach to radically change the labor-management relationship, known as employee stock ownership programs. Labor began to exchange concessions for some ownership in the carriers, membership on boards of directors, changes in operations and replacement of top management. For example, United employees became majority owners; employees at Northwest also took a significant ownership interest. The theory and hope was that as owners, labor and management would be in the same boat pulling in the same direction. The industry made $25 billion in profits during the 1995-2000 period. Yet the topsy-turvy nature of the airline business, with exogenous factors such as fuel spikes, economic cycle swings and heavy debt levels, rendered the great experiment a failure. Nonetheless, the vital need for labor and management to work together stands. A vehicle for its accomplishment is still elusive, however.**

***9/11 and Bankruptcies*. With 9/11 came the closing of US airspace for five days and ongoing security concerns, which led to five years of financial disaster in the industry. During the next decade, every major carrier, except Southwest, went into bankruptcy, and some went into bankruptcy twice. Mass layoffs resulted. Pensions were devastated. Lives, careers and employee expectations were thrown into turmoil. Airlines enter bankruptcy at many times the rate of US businesses generally. There have been over 100**

airline bankruptcies since 1978. http://www.airlines.org/Pages/U.S.-Airline-Bankruptcies-and-Service-Cessations.aspx.

From the union's vantage point, in the early 2000s, management took advantage of its financial problems by invoking "force majeure" clauses to lay off thousands of employees, bypassing contractual benefits and protections. According to labor, management avoided its pension and other contractual obligations by entering bankruptcy. Through bankruptcy, the unions said, management avoided its Railway Labor Act obligations to bargain at arm's length with its employees' representatives and to reach mutually acceptable agreements. Management's view, on the other hand, is that bankruptcy was often essential to the carrier's survival and that it had no choice but to reduce costs through furloughs, radical reductions in compensation and benefits, and changes in work rules.

The perception that management took full advantage of the bankruptcy laws to exact concessions, might lead to demands that workers take comparable advantage of the upturn. Carriers will have to convince employees to consider their long term interests in light of this history, which will be challenging. Of course, employees with the greatest investment in their careers may be more concerned about another bust after the boom.

***The New Normal*. During the first half of the 2000s, the advent of the "new normal" occurred. Transparency in fares became prevalent through the Internet. Companies such as Expedia, Orbitz and Priceline grew as consumers no longer had to search an airline's website to find the lowest fares. Travel became more of a hassle because of new security measures. The low-cost carriers had more than 400 aircraft on order, which was equivalent to the size of a major airline.**

***Restructurings*. Reducing costs became the single most important objective of airlines in light of the bankruptcies. Defined benefit pension plans and retiree medical plans were**

terminated at nearly every airline with such plans, and significant amounts of the work of employees not in the cockpit or the cabin ----i.e. maintenance, fleet service, and passenger service—has been outsourced.

The restructurings led to extremely contentious labor relations. Labor and management's two diametrically opposed viewpoints could have led to serious confrontations. Moreover, such disruptions could have come during the severe economic downturn some call the Great Recession of 2008–10. Instead, something else occurred—industry consolidation.

***Consolidation*. The current consolidation is the culmination of the acquisitions of the 1980s, the radical financial efforts of the 1990s and the restructurings of the early 2000s. Clearly, there were other reasons for consolidation, especially the need to create a platform for sustained profitability after the multiple bankruptcies of the early 2000s. Yet while consolidation did bring at least momentary peace to labor relations, the trauma of uniting enormous and different workforces and cultures continues.**

New and Ongoing Pressures and Developments

The airline industry faces considerable pressure from different sources and sectors. This includes competition from international carriers and low-cost domestic carriers. At the same time, developments such as the growth of the regional airline industry and the increased use of technology by consumers are changing the landscape.

***Roller-Coaster Economics*. Airlines operate with the heavy double weights of large labor forces and expensive equipment and fees. It is a capital-intensive industry; airplanes, maintenance hangers, flight simulators, real estate and airport space are all costly. It is also a labor-intensive industry, with a large and diversely skilled workforce that includes**

pilots, flight attendants, mechanics, baggage handlers, customer service agents, cleaners, schedulers and dispatchers.

***Skinny Profit Margin*. The airline industry is a service industry, so no inventory is created or stored for future sale. Net income per enplanement was -$9.22 for 2001–2010; $.77 for 2011; and $.50 for the third quarter of 2012. Net profit margin is consistently below the average for US industry as a whole. Essentially the airlines cannot make a profit unless their load factor is above approximately 80 percent, or they can make up for a lesser load factor through increased ticket prices. Airline prices have fallen 40 percent since deregulation in 1978. Employment in the US airline industry has plummeted from 650,000 in 2001 to 380,000 today. http://www.rita.dot.gov/bts/home.**

***US Airlines' Profits*. The only pattern of profitability the industry has known is that, in the end, losses will exceed profits; since the industry's founding, airlines have lost more money than they have profited. Business cycles, unforeseen circumstances and dramatic weather events are always intruding on the industry—fuel spikes, 9/11, SARS, Katrina, etc. The majors' profits are derived mostly from international flying, but 75 percent of US airlines' revenues are from domestic service. The industry lost $4.5 billion in 2008 alone. http://usatoday30.usatoday.com/travel/flights/2009-01-29-profit-loss-airlines_N.htm?csp=Forbes Between airline deregulation in 1978 and 2009, the industry has had a net loss of about $59 billion.**

Then, from 2009 to 2013, the US airline industry produced four consecutive years of profits, a remarkable achievement because the rest of the economy was undergoing a severe recession or very slowly coming out of it. To some observers, the four years of profitability in the midst of the most severe US recession since the Great Depression is a sign that industry profitability is sustainable long term and is not subject to the roller-coaster scenario of old—where enormous losses/bankruptcies followed great

profits/expansions. The stock market is certainly along for the ride, but how much of this optimism can be attributed to "drinking the Kool-Aid" is not known.

***Post-Bankruptcy Period*. In the post-bankruptcy period, the majors certainly cleared their books of debt and cut costs, much of it on the backs of employees. Lasting profitability is another thing altogether, given the challenges facing the industry. Of course, long-term prospects may be good, because world airline growth is estimated to rise 5 percent per year between 2012 and 2032.**

***International Competition*. Foreign airlines are reaping the benefits of direct and indirect government subsidies. Infrastructure investment has created modern efficient airports and access to airports (trains and trolleys) absent in the US. The "welfare state" in Europe and elsewhere amount to a labor subsidy unmatched in the US. Cheap fuel subsidizes the enormous growth of the middle east airlines. The Gulf States countries are buying enormous numbers of wide-body aircraft. The national carriers of the Gulf States—Emirates (Dubai based), Etihad (the national airline of the United Arab Emirates) and Qatar Airways—are doing all they can to lure connecting passengers from Europe and the United States. Together, these three carriers currently have 721 wide-body aircraft in their fleet or on order, compared with a total of 671 wide bodies US airlines currently have in their fleet or on order. In addition, the Gulf carriers have an unfair advantage because their home countries are subsidizing them. Although these airlines pose a threat to US carriers by taking passengers to and from the subcontinent (e.g., China or India), US passengers generally still prefer to fly on US airlines. Asia also is buying tremendous numbers of aircraft (500 wide bodies in the fleet or on order), and it has vast potential internal domestic routes to develop (e.g., India and China).**

Norwegian Air Shuttle is the third largest European low-cost startup behind Ryanair and EasyJet. Yet, unlike those mainly intra-Europe carriers, Norway-based NAS is using

Ireland as a base for a long-haul operation, because of lower labor costs, and the airline is using employees from Singapore. NAS submitted an application to allow a subsidiary to fly to the United States. It is using the EU-US open skies agreement to fly to the United States from all over Europe, rather than solely its home country of Norway. It is bragging about flying transatlantic for 50 percent of the cost of the current leaders.

Three US carriers have 87 percent of the transatlantic market as part of their alliances. US carriers make much of their profits from international travel, especially to Europe, so NAS is a real threat to US carriers. Critics say NAS is circumventing Norwegian labor laws by registering its aircraft in Ireland, where labor costs and taxes are significant lower. ALPA President Lee Moak has stated: "NAI was clearly designed to attempt to dodge laws and regulations, starting a race to the bottom on labor and working conditions. If successful, the company would gain a serious and unfair advantage over US airlines in the competition for the business of international passengers flying to and from the United States. This exploitation of the laws intended to prevent labor law shopping cannot be allowed to stand." "U.S. Carriers Wary of Norwegian Airline's Cut-Rate Wages," Nathan Hurst, Roll Call, 1/6/14.

Aviation authorities in Europe have approved NAS's operations, however, and it is maybe doubtful that US authorities will deny NAS's application. Country of origin may be becoming just a flag of convenience, where an airline can register anywhere it chooses. If allowed to continue, there is a concern that the airline industry could turn into the maritime industry, where ships are registered wherever cheapest; the U.S. maritime industry has been in decline since the 1940s. Foreign ships and tankers now carry most of the US cargo.

***Global Alliances*. There are three "global alliances," coalitions of international carriers who code share, essentially share flying, on flights that are reserved by passengers who**

book through any of the alliance's members: "One World" (13 carriers including American Airlines/British Airways), "Sky Team" (19 carriers including Delta, KLM and Air France) and "Star Alliance" (28 carriers, including United Airlines/All Nippon Airways). Each of the alliances matches up with one of the major US carriers—American, Delta and United. Created in 1999, 2000 and 1997, respectively, these alliances represent an effort at cooperation and have antitrust immunity.

***Foreign Ownership*. Maybe the biggest question of the next several years is foreign ownership. Now foreigners can only own up to 49 percent of a US airline and up to 25 percent of its voting shares. These American-only rules are unique in US industry. In an age of global flows of capital and ownership, arguments against foreign ownership may get less sympathy. US carriers themselves sought to loosen these rules during the 2001–2005 bankruptcy period, when they were desperate for capital infusions. Yet they closed ranks again when Virgin Atlantic sought to enter the US market.**

Interestingly, today, Delta owns 49 percent of Virgin Atlantic, and the two airlines have a code-sharing arrangement. Jet Blue has an interline agreement with British Airways, Europe's largest carrier, incorporating 18 transcontinental flights, 50 routes within the United States and 100 British Airways routes beyond London. Other international partnerships and mergers and acquisitions are bubbling up throughout the US and international industry. So while US airlines are in a defensive posture, they are also hedging their bets with an aggressive international strategy.

***Low-Cost Carriers and Price Pressures*. Jet Blue, Spirit, Virgin America, Allegiant Air, Frontier Airlines, Spirit Airlines and Sun Country are the low-cost carriers and have a 30 percent capacity share of total seats in North America. Will the consolidated majors drive them out of business with price and frequency competition and strategic acquisitions as**

they did in the 1980s? Or, will the low-cost carriers survive and keep domestic prices low and only barely profitable?

***Regional Airline Industry Concentration*. Another big change is the enormous growth and concentration of the regional airline industry. It is now essentially a commodity business, and lowest price wins the majors' contract for service. It is the fastest-growing and most profitable part of the industry. The top five regional carriers control 78 percent of the service: SkyWest, Republic, American Eagle, Endeavor (formerly Pinnacle) and Trans States. http://s1170.photobucket.com/user/RAAAdmin/media/AR13_FullTime_Equivalent_Employee_zpsc036e793.jpg.html.**

Regionals carry about 162 million passengers per year, compared with the majors' 741 million passengers per year. Their average trip length in 1980 was 129 miles; today it is 469 miles. The regional fleet is composed of 1,700 aircraft; about 1,000 of these aircraft are 50 seaters. http://s1170.photobucket.com/user/RAAAdmin/media/13AR_TrafficStatistics_zps3c39c41a.jpg.html. This compares with the four majors' average of about 720 aircraft each, or 2,880 total aircraft, with an average of 235 seats. http://www.airlines.org/Pages/Airline-Handbook-Chapter-2-Economic-Deregulation.aspx.

The majors have exerted pressure on their regional partners to keep costs low in order to keep the cost of their passenger feed low. The multiple regional airline groups have in turn kept collective bargaining agreement costs low by using their leverage to shift aircraft and flying to the least expensive regional operator. The only quid pro quo the carriers are offering are "flow up" rights to the majors, and this is limited to Envoy (former American Eagle), Compass, Endeavor, PSA and Piedmont. In light of the anticipated pilot shortage, however, the regionals may be forced to modify their hard line

in order to attract pilots. These tensions are reflected in the recent pilot rejections of tentative agreements at ExpressJet, Envoyand Republic Airways.

***Technology and Other Influences*. Internet booking options/optimizers, video conferencing, intercity buses and fractional ownership private jet operations are all threats to industry pricing and to passenger volume. Alliances and partnership programs among airlines have kept frequent flyer programs effective. However, frequent flyer loyalty programs are perhaps less powerful than in the past, because fewer seats are available. Moreover, security hassles and crowded planes are driving some passengers away.**

***Pilot Shortage*. A pilot shortage is possible stemming from several factors, including new flight time/duty time rest regulations; pilot retirements; fewer military pilots especially as drones have replaced military aircraft; increased demand for pilots because of air traffic growth worldwide; and, especially, a new federal licensing requirement for pilots. The new Federal Aviation Administration rule mandates that all new pilots have an air transport pilot (ATP) license, which requires 1,500 hours of flight time, instead of a commercial pilot certificate, which requires only 250 hours of flight time, to become a first officer for an FAA-certified carrier. Training costs for someone considering a career as a pilot may be prohibitive. At a cost of $100 per hour flight time, the new FAA rules require aspiring pilots to take on roughly $150,000 in debt, just to get hired at a regional carrier paying pilots $21,000 in their first year. http://www.aspireaviation.com/2014/02/27/us-airline-industry-pilot-shortage/. In addition, the new flight time/duty time regulations have put pressure on scheduling pilots to meet operational demands and increased staffing requirements.**

It has been estimated that over 65,000 pilots will be needed by US carriers alone over the next 8 years. Only 36,000 pilots have passed the FAA's ATP exam in the last 8 years.

http://online.wsj.com/news/articles/SB10001424052970203937004578079391643223634. Asian and Middle Eastern airlines are heavily recruiting pilots, especially Captains, at high pay rates. Considerable poaching of pilots among all carriers is already happening. There is little doubt that some of the problem with recruiting persons with the skill set to be pilots relates to the volatility of the industry and the price paid by pilots in the ten years since 9/11.

Existing and Future Labor Relations Issues

Changes in the collective bargaining environment portend changes in labor relations and the ways labor and management do business.

***Shutdowns Unlikely*. The concentration of the industry means the public will not likely tolerate shutdowns of the majors. A major airline's half-million passengers whose flights are cancelled due to a strike or lockout will make a lot of noise, as will their political leaders. The Railway Labor Act's Section 10 criteria for creating emergency boards will likely be met, because no alternative capacity exists to handle the number of passengers discommoded.**

The majors now account for 11 million flights and 741 million passengers per year, or 2 million passengers per day. That is an average of more than 500,000 passengers per day for each of the four major carriers. The airlines are responsible for $185 billion in revenue, 12 million US jobs and $1.3 trillion in economic activity. Commercial aviation is responsible for 5 percent of gross domestic product. http://www.airlines.org/Pages/Economic-Impact.aspx. The impacts of a shutdown by any of the Big 4 on business and vacation travelers and on regional business markets are enormous.

Presidential Emergency Boards. **The pressure on the White House, Congress and the National Mediation Board to create an emergency board will be intense. Presidents Clinton and Bush created three airline emergency boards, between 1997 and 2001, even before 9/11 or consolidation. The three emergency boards were created after 31 years without a single emergency board in the airline industry.**

Neither labor nor management really embraces EBs. They would much rather achieve a voluntary agreement. The likelihood of boards being created may drive the parties toward agreement. Uncertainty about a board's creation is essential, but because that uncertainty is probably lost, at least with the majors, the parties will be strategizing about negotiations with the probability of an EB, absent a voluntary agreement.

Emergency boards are intrinsically conservative and do not favor radical change; they like predictability and outcomes not being out of line with other comparable settlements. Patterns are the norm. Discerning what the pattern is can sometimes be difficult, though this is less of a problem today with only four major airlines. Moreover, EBs tend to be inured to, and skeptical of, business cycle arguments (i.e., that a downturn justifies concessions, because an upturn is around the corner and vice versa).

***Impact on Bargaining*. A problem of the inevitability of EBs is that the parties will pro forma "negotiate" because they anticipate an emergency board will be created. Why make the hard trade-offs if the decision making can be left to the neutrals. Another problem with EBs is that the parties do not "own" the settlement and, consequently, are less inclined to make it work. Moreover, numerous and complex issues may be misunderstood and mishandled by the neutrals and may hurt both sides. This is unlike railroad EBs, which deal only with a very small number of items such as basic wage rates and health insurance..**

***Concerns About Interest Arbitration*. Labor and management generally do not like interest arbitration because it represents their failure to successfully bargain collectively. The parties lose control of vital aspects of their negotiations. A third party is asked to complete the task. Interest arbitration is used more in the public sector, often by legal mandate. With airlines, the public has determined that self-help is unacceptable, so an alternative is some form of "end game" arbitration, be it EBs or arbitration. Even absent the public interest, the parties themselves recognize that self-help may lead to self-destruction given the turbulent economics of the industry. Furthermore, they recognize that the duration of bargaining in current times is unacceptable.**

***Excessive Duration of Negotiations*. The Dunlop 2 Committee, appointed by the National Mediation Board in September 2009 to look at the future of worker-management relations, was composed of representatives of airline and railroad labor and management and facilitated by me. The Committee wrote a report on some of the NMB's functions, including mediation. "The greatest concern heard by the Committee was frustration concerning the lack of real and timely progress made in mediation. The perception that the process is inordinately long is strongly held by many parties. This certainly extends to less complex cases which should be handled more expeditiously. For FY 2004–08 the average length for a case in mediation was 758 calendar days. Delay can have a major impact on the parties' approach, attitude and culture with regard to collective bargaining" (http://www.nmb.gov/documents/dunlopii-finalreport_4-16-10.pdf, p. 8). The report provides useful information on what the NMB and the parties can do to speed up collective bargaining.**

***Alternative Bargaining Options*. In light of the new reality, are there other methods of bargaining (e.g., med-arb) that meet the needs of control, effectiveness and timeliness?" The National Mediation Board and the parties have developed bargaining protocols to set**

timelines for the negotiation of certain subjects, in an agreed-to sequence. Such protocols are a response to the recognized frustration over bargaining delays and lack of control over the process. In addition, the NMB has developed an "expedited mediation" process that involves the parties agreeing to a focused, relatively short period for negotiations on a limited number of issues. It will devote the required mediator time to work with the parties in a concentrated and expedited basis. The NMB expects that the parties will dedicate themselves to the effort in a comparable manner. Several parties have used this process, including United–AFA, United–IAM and Hawaiian Airlines–AFA.

American Airlines and US Airways are using interest arbitration as part of their merger process. The merger-related agreements include a process for reaching joint collective bargaining agreements among the airlines' respective employee groups, a process for achieving integrated seniority lists and a timetable for a single carrier application to the NMB. The pilot, flight attendant and mechanics agreements all include an interest arbitration backstop, in case the parties do not conclude voluntary agreements. Several substantive standards for interest arbitration are part of these agreements, in particular, the use of specifically named comparator carriers, namely, Delta and United. Therefore, in addition to finality, these agreements solidify the reality of pattern bargaining.

Alternative bargaining approaches date back to the 1980s. For example, Western Airlines and ALPA, in their 1984 round, agreed to a process where there were 90 days of negotiations; 20 issues were allowable from each side for direct negotiations, 10 issues were subject to mediation thereafter and then only 5 issues could go before an arbitrator. As a result of this relatively quick and efficient process, the parties were able to reach agreement. Western was able to survive until it was bought by Delta in 1987, a highly successful result as it turns out.

A similar process was agreed to by Compass Airlines and ALPA for the parties' second round of collective bargaining in 2012–13. A letter of agreement, reached at the end of their last negotiations in 2007, provided for a comprehensive systematic approach to their 2012 amendable date collective bargaining negotiations. The process, for which I served as mediator, involved strict timeframes for direct negotiations (6 months), mediation (3 months) and interest arbitration (2 months). The whole process, beginning to end, was set to conclude by 330 days (11 months). If open issues remained after direct negotiations and mediation, the parties were each limited to presenting up to only 20 issues in interest arbitration. The criteria set forth in the agreement called for the neutral to apply a "regional carrier industry standard" in deciding issues. The parties made extensive and successful use of subject matter experts (SMEs), small groups which addressed technical issues such as training and scheduling.

Although negotiations were not especially productive in the direct negotiations stage, the parties were able to work through literally hundreds of issues in the mediation phase so very few issues remained for in the arbitration phase. Significantly, much of the frustration and hostility engendered by the average three years of airline negotiations was avoided. Also, the parties themselves wrote and "owned" the agreement, with only the threat rather than the reality of third-party intrusion into the parties' prerogatives.

***Importance of Mediation*. Whether an emergency board or interest arbitration is used, the more the process is able to capture where collective bargaining might have led and the more the process finds an acceptable alternative, the better off it will be because it will reflect the parties' own interests and concerns. The method of getting there needs to be one that best ascertains the interests and priorities of each side. Consequently, informal non-adversarial processes in arbitration help. This is why mediation is especially useful, before or during the process. The mediator must narrow the**

differences. If the process helps focus the parties on accommodating each other's interests and establishes an environment for constructive talks, it may be that sacrificing an ultimate right to self-help, especially an illusory one, makes sense. See generally, "Conducting Interest Arbitration in the Airline Industry," Harry Rissetto, 2002 NAA Proceedings, pp. 146-155.

Final offer arbitration may be useful if there are few issues remaining, such as money items. This approach is not generally useful if there are greater numbers of issues or complex issues that warrant more subtle solutions.

***Flexibility and Responsiveness*. In the end, however, there is no substitute for good bargaining. An example is the remarkable job the flight attendants have done in building flexibility into their contracts with so many carriers. At some major airlines, they can perform as few as 50 hours a month of duty time and obtain full benefits. This flexibility benefits both the flight attendants and the company. The flight attendants can adjust their schedule to address family demands and other lifestyle interests. The company is able to maintain flexibility on the usage of flight attendants so it can adjust to variations in its marketing and avoid the disruption of constant furloughs and recalls. These agreements were reached over multiple negotiating rounds. Patience is a virtue. The approach has similar benefits to Germany's flexible employment economic model that, in periods of economic downturn, encourages firms to make full-time workers part-time workers in order to avoid furloughs.**

The airline industry is very dynamic, so the parties need to be nimble enough to take advantage of opportunities and address challenges in the period between contract negotiations. Although the parties maintain committees to address scheduling, new

equipment, training and other issues, they need to be able to move with agility to address business opportunities and adversities. Labor and management should have the information they need and be empowered to act constructively. This takes working together regularly and having certain degrees of trust and transparency.

Next Steps

Industry consolidation affords opportunities and presents challenges. Profitable periods of airline business cycles are not that long. The parties should take advantage of these periods to work together. Globalization poses the greatest challenge to the US airline industry. Real competition from Norwegian Air Shuttle and its potential imitators, as well as from Asia and the Middle East, should incentivize labor and management to work together at the collective bargaining table and with government and the public. Low-cost carriers and alternatives to air travel continue to be serious competitors domestically. The parties have every reason to collaborate for their mutual benefit.

Self-help may be illusory, so persuasion rather than coercion will be the most productive negotiating strategy. Applying patterns will lessen the underlying basis for antagonism. The parties need to develop mechanisms and procedures for joint efforts, such as med-arb, in collective bargaining. In the period between bargaining rounds, effective committees should be ready and equipped to deal with urgent issues that arise and to resolve issues that would otherwise be a drag on collective bargaining.